

### § 3.1

### 16 CFR Ch. I (1–13 Edition)

AUTHORITY: 15 U.S.C. 46, unless otherwise noted.

SOURCE: 32 FR 8449, June 13, 1967, unless otherwise noted.

## Subpart A—Scope of Rules; Nature of Adjudicative Proceedings

### § 3.1 Scope of the rules in this part; expedition of proceedings.

The rules in this part govern procedure in formal adjudicative proceedings. To the extent practicable and consistent with requirements of law, the Commission's policy is to conduct such proceedings expeditiously. In the conduct of such proceedings the Administrative Law Judge and counsel for all parties shall make every effort at each stage of a proceeding to avoid delay. In the event of a scheduling conflict between a proceeding in which the Commission also has sought or is seeking relief under Section 13(b) of the FTC Act, 15 U.S.C. 53(b), and another proceeding, the proceeding in which the Commission also has sought or is seeking relief under Section 13(b) shall take precedence. The Commission, at any time, or the Administrative Law Judge at any time prior to the filing of his or her initial decision, may, with the consent of the parties, shorten any time limit prescribed by these Rules of Practice.

[74 FR 20208, May 1, 2009]

### § 3.2 Nature of adjudicative proceedings.

Adjudicative proceedings are those formal proceedings conducted under one or more of the statutes administered by the Commission which are required by statute to be determined on the record after opportunity for an agency hearing. The term includes hearings upon objections to orders relating to the promulgation, amendment, or repeal of rules under sections 4, 5 and 6 of the Fair Packaging and Labeling Act, but does not include rulemaking proceedings up to the time when the Commission determines under § 1.26(g) of this chapter that objections sufficient to warrant the holding of a public hearing have been filed. The term also includes proceedings for

the assessment of civil penalties pursuant to § 1.94 of this chapter. The term does not include other proceedings such as negotiations for and Commission consideration of the entry of consent orders; investigational hearings as distinguished from proceedings after the issuance of a complaint; requests for extensions of time to comply with final orders or other proceedings involving compliance with final orders; proceedings for the promulgation of industry guides or trade regulation rules; or the promulgation of substantive rules and regulations.

[74 FR 1820, Jan. 13, 2009]

## Subpart B—Pleadings

### § 3.11 Commencement of proceedings.

(a) *Complaint.* Except as provided in § 3.13, an adjudicative proceeding is commenced when an affirmative vote is taken by the Commission to issue a complaint.

(b) *Form of complaint.* The Commission's complaint shall contain the following:

(1) Recital of the legal authority and jurisdiction for institution of the proceeding, with specific designation of the statutory provisions alleged to have been violated;

(2) A clear and concise factual statement sufficient to inform each respondent with reasonable definiteness of the type of acts or practices alleged to be in violation of the law;

(3) Where practical, a form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint; and

(4) Notice of the specific date, time and place for the evidentiary hearing. Unless a different date is determined by the Commission, the date of the evidentiary hearing shall be 5 months from the date of the administrative complaint in a proceeding in which the Commission, in an ancillary proceeding, has sought or is seeking relief pursuant to Section 13(b) of the FTC Act, 15 U.S.C. 53(b), and 8 months from the date of issuance of the administrative complaint in all other proceedings.

[74 FR 1820, Jan. 13, 2009]